

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

<b>JOHN R. DEMOS,</b>	)	<b>CASE NO. 7:20CV00230</b>
	)	
<b>Plaintiff,</b>	)	
<b>v.</b>	)	<b>MEMORANDUM OPINION</b>
	)	
<b>DONALD J. TRUMP, <u>ET AL.</u>,</b>	)	<b>By: Glen E. Conrad</b>
	)	<b>Senior United States District Judge</b>
<b>Defendants.</b>	)	

John Demos, a Washington State inmate proceeding pro se, filed this action under Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971), in which he names President Donald J. Trump, Vice President Mike Pence, and Senate Majority Leader Mitch McConnell as defendants. Demos alleges that in the face of the COVID-19 pandemic, McConnell has failed to provide for the common defense, Trump has failed to faithfully execute Article II of the Constitution by appointing a “health czar to oversee, direct, [and] coordinate the COVID-19 pandemic,” and Pence is in violation of his duty to “preserve, protect, [and] defend” the country’s “domestic tranquility.” Compl. 4, 6, 8, ECF NO. 1. Demos has moved for leave to proceed in forma pauperis. Upon review of the record, the court finds that the action must be summarily dismissed without prejudice under 28 U.S.C. § 1915(g).

Section 1915(g) provides:

In no event shall a prisoner bring a civil action [in forma pauperis] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). Demos has filed scores of actions or appeals that have been dismissed as frivolous, malicious, or for failure to state a claim upon which relief could be granted, and other

courts have found him barred under § 1915(g) from filing without prepayment of filing costs. See, e.g., Demos v. United States, No. 1:09-cv-03205-CCB (D. Md. Dec. 23, 2009), aff'd, Demos v. United States, 373 F. App'x 420 (4th Cir. 2010); Demos v. Keating, 33 F. App'x 918, 919-20 (10th Cir. 2002). Demos' current complaint does not demonstrate that he is in imminent danger of serious physical harm related to his claims.\*

For the stated reasons, the court will dismiss the action under § 1915(g) without prejudice to Demos' refiling of the action accompanied by the full \$400.00 filing fee. An appropriate order will enter this day. The clerk will send Demos a copy of this memorandum opinion and the accompanying order.

**ENTER:** This 24th day of April, 2020.

  
Senior United States District Judge

---

\* At the most, Demos alleges that the defendants have failed to protect the country, including Demos, from the effects of the COVID-19 pandemic. The public website for the Department of Corrections for Washington State ("DOCW") indicates, however, that at the Washington State Penitentiary, where Demos is confined, officials had not diagnosed any cases of COVID-19 as of Friday, April 17, 2020. The DOCW website also indicates that prison officials have taken aggressive steps to protect the health of its inmates and staff in all prison facilities against the COVID-19 virus